

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

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| In the matter of Ron Williams |) | |
| and Lakeview Sports Bike and Jet Ski Rental: |) | |
| Violation of Waste Discharge Prohibitions prescribed in |) | COMPLAINT NO. 6-98-63 |
| the Water Quality Control Plan for the Lahontan Region |) | FOR ADMINISTRATIVE |
| for the Unauthorized Discharge of Petroleum Products |) | CIVIL LIABILITY |
| to Lake Tahoe, El Dorado County |) | |
| WDID NO. 6A099807N01 |) | |

ISSUED TO LAKEVIEW SPORTS BIKE AND JET SKI RENTAL, YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are charged with a violation of provisions of law, or orders of the California Regional Water Quality Control Board, Lahontan Region, for which the Regional Board may impose administrative civil liability pursuant to Section 13385 of the California Water Code.
2. Unless waived, a hearing on this matter will be held before the Regional Board at their meeting on October 1-2, 1998. You, or your representatives, will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. An agenda showing the time set for the hearing will be mailed to you not less than ten days before the hearing date.
3. At the hearing, the Regional Board will consider whether to affirm, reject, or modify the proposed civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

ALLEGATIONS

4. Ron Williams is the owner of Lakeview Sports Bike and Jet Ski Rental, 3131 Lake Tahoe Blvd., South Lake Tahoe, El Dorado County. For the purposes of this Complaint, the Lakeview Sports Bike and Jet Ski Rental is referred to as the Discharger. On July 28, 1998, the Discharger discharged gasoline from a fuel dispenser to Lake Tahoe.
5. The Discharger violated waste discharge prohibitions contained in the Water Quality Control Plan for the Lahontan Region (Plan). The Plan was adopted pursuant to Section 13243 of the California Water Code and states the following discharge prohibitions for the Lake Tahoe Hydrologic Unit:
 - “2. The discharge of any waste or deleterious material to surface waters in the Lake Tahoe Hydrologic Unit is prohibited.
 3. The discharge of any waste earthen material, or of any other waste as defined in Section 13050(d) of the California Water Code, which would violate the water quality objectives of this Plan, or otherwise adversely affect the beneficial uses of water designated by this Plan, is prohibited. . . .

7. The discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand, and other organic and earthen materials, to the surface waters of the Lake Tahoe Basin, is prohibited.”

On July 28, 1998, the Discharger allowed a fueling dispenser to continuously leak gasoline directly to Lake Tahoe. Gasoline is a deleterious material. Further, the discharge caused concentrations of gasoline constituents in Lake Tahoe above primary and secondary maximum contaminant levels (MCLs) set for drinking water. The Plan’s water quality objectives for Lake Tahoe include the MCLs; therefore, the discharge violated the water quality objectives. The Discharger violated the above-cited prohibitions by discharging gasoline to Lake Tahoe.

6. The following additional facts, as collected by Regional Board staff, are the basis for the violations in this matter:

In response to a spill complaint, Regional Board staff arrived at the Lakeview Sports Jet Ski Rental facility at approximately 3:30 p.m. on July 28, 1998. Regional Board staff observed gasoline dripping from a nozzle directly to Lake Tahoe. Regional Board staff collected a water sample (Lahontan Sample ID No. 989EN032) from Lake Tahoe in the vicinity of the discharge, collected a soil sample (Lahontan Sample ID No. 989EN033) adjacent to the fueling facility, and took photographs of the sampling locations and the fueling system.

The water sample taken in Lake Tahoe near the point of discharge contained gasoline constituents at the following concentrations (in micrograms/Liter):

| Constituent | Lakeview Sports | <u>Maximum</u> | Notes |
|-----------------------------------|--------------------|-------------------------------------|---------------|
| | | <u>Contamination</u> Level (MCL) | |
| Methyl Tertiary Butyl Ether, MTBE | 99 | 35 | primary MCL |
| Total Petroleum Hydrocarbons, gas | 320 | 50 | secondary MCL |
| Benzene | 5.9 | 1 | primary MCL |
| Toluene | 69 | 42 | secondary MCL |
| Ethylbenzene | 7.9 | 29 | secondary MCL |
| Xylene | 45 | 17 | secondary MCL |

All gasoline constituent concentrations, except Ethylbenzene, exceed the MCLs for drinking water. The soil sample was non-detect for these constituents.

Staff inspected the fueling operation with Oscar Hernandez of the El Dorado County Environmental Management. The fueling system consisted of a 55-gallon drum connected to clear plastic flexible tubing, attached to a metal ball valve which was used to regulate flow. The drum is located in an area where waves lap at the drum and the fuel line. This system was used to fill five-gallon gasoline cans, which were then used to fuel the Jet Skis. Regional Board staff directed the site attendant, an employee of the Discharger, to immediately remove the nozzle from above Lake Tahoe waters, place it in a five gallon bucket, and repair the defective valve before resuming fueling operations. A follow up inspection showed that the defective valve had been replaced and the line

was no longer leaking, but the fuel line was still hanging over Lake Tahoe with the five gallon bucket hanging next to it.

Businesses storing 55 or more gallons of hazardous materials are required to file a Business Plan with the County. According to County staff, Lakeview Sports had not filed a Business Plan for their Jet Ski Rental operation, which regularly stores more than 55 gallons of gasoline. The County will require a Business Plan and will require modifications to the current fueling operation to protect water quality.

PROPOSED CIVIL LIABILITY

7. For the discharge of petroleum products to Lake Tahoe, the Regional Board may impose civil liability pursuant to Section 13385(c)(1) of the California Water Code: for discharges in violation of waste discharge prohibitions adopted pursuant to Section 13243 of the California Water Code, the Discharger may be liable in an amount not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs. The waste discharge prohibitions specified in the Plan, and cited above, were adopted pursuant to Section 13243 of the California Water Code.
8. In this matter, the maximum civil liability under Section 13385 could amount to ten-thousand dollars (\$10,000) for the July 28, 1998 discharge of petroleum products to Lake Tahoe.
9. The Executive Officer of the Regional Board took the following factors into account, as set out in Section 13385 (e) of the California Water Code, in recommending the amount of the administrative civil liability:
 - a. The nature, circumstances, extent, and gravity of the violations;

The discharge of petroleum products to Lake Tahoe violates Plan prohibitions and water quality objectives. Concentrations of gasoline constituents in Lake Tahoe resulting from the discharge exceeded drinking water standards. The Discharger negligently and blatantly allowed gasoline to leak continuously from a fueling dispenser directly to Lake Tahoe.
 - b. The violator's ability to pay;

The violator is a small business. The Regional Board staff has no specific information regarding the violator's ability to pay.
 - c. Any prior history of violations;

The Discharger has no known history of violations.
 - d. Degree of culpability;

The Discharger discharged gasoline petroleum products to Lake Tahoe from a fueling system that was not permitted in accordance with El Dorado County Codes. Even with the unpermitted system, the Discharger could have taken

simple steps to avoid the discharge, including secondary containment and proper maintenance of fueling equipment.

- e. Economic savings or benefit, if any, resulting from the violation; and

The Discharger may have realized an economic benefit from the savings in personnel time and money by not filing a Business Plan with the County, and by not installing a better fueling system with adequate spill prevention and spill containment features. However, the County will now require these expenditures.

- f. Other matters that justice may require.

Regional Board staff costs to investigate and issue the enforcement action are estimated to date at \$2500.

10. The Executive Officer of the Regional Board proposes that administrative civil liability be imposed by the Regional Board in the amount of five thousand dollars (\$5000.00), pursuant to Section 13385 of the California Water Code.

WAIVER OF HEARING

11. You may waive the right to a hearing. If you choose to waive the hearing, please check and sign the waiver and return it to the following address with a cashier's check or money order for the amount of civil liability proposed in paragraph 10, above:

California Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

In accordance with 40 Code of Federal Regulations, Section 123.27(a), a 30-day public comment period will be required for a proposed settlement of administrative civil liability.

Ordered by: _____ Dated: _____
HAROLD J. SINGER
EXECUTIVE OFFICER